

# Court Qualifies Immunity Given Top U.S. Officials

By Morton Mintz  
Washington Post Staff Writer

The Supreme Court ruled 5 to 4 yesterday that high federal officials—possibly including the president—can be sued personally for knowing and deliberate violations of constitutional rights.

The court rejected the government's contention that absolute immunity from liability protects members of the Cabinet or other executives with discretionary power if they flout the limitations imposed on them by law.

The dissenters denounced the ruling, mainly because of "the potential for disruption of government that it invites."

Acting in a case involving the Agriculture Department, the justices said that such executives are entitled to a qualified immunity, which shields them if they acted in good faith and on reasonable grounds.

At the same time, the court ruled that absolute immunity protects officials whose special functions require it, such as administrative law judges or hearing examiners, and agency attorneys who present evidence in hearings.

"The extension of absolute immunity . . . to all federal executive officials would seriously erode the protection provided by basic constitutional guarantees," Justice Byron R. White wrote in the opinion for the court.

"The broad authority possessed by these officials enables them to direct their subordinates to undertake a wide range of projects—including some which may infringe such important interests as liberty, property and free speech," he said.

In a previous decision, the court held that federal law-enforcement agents were liable for warrantless and forcible entries into a citizen's home in pursuit of evidence.

Rejecting a government argument, White wrote that it "makes little sense" for such agents to be accountable "but that an official of higher rank who actually orders such a burglary is immune simply because of his greater authority." He added:

"Indeed, the greater power of such officials affords a greater potential for a regime of lawless conduct. Extensive government operations offer opportunities for unconstitutional action on a massive scale. In situations of abuse, an action for damages can be an important means of vindicating constitutional guarantees."

The reasoning of the court was dictated in part by a series of rulings in recent years that accorded only qualified immunity to various state officials—up to and including the chief executive of a state.

One of the rulings allowed a damage suit to proceed against high officials of Ohio, including Gov. James A. Rhodes, in connection with the deaths and injuries inflicted by National Guardsmen who fired on students during disturbances at Kent State University.

See COURT, A5, Col. 1

*r  
medium  
file*